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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Ishak

Application No.: 10/000,062

Group Art Unit: 2873

Filed: 2 November 2001

Examiner: To be assigned

For: WATERMAN'S SUNGLASS LENS

RECEIVED

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OFFICE OF PETITIONS



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PETITION TO RESCIND A NOTICE OF OMITTED ITEM(S) IN A  
NONPROVISIONAL APPLICATION UNDER 37 C.F.R. § 1.181

The Honorable Commissioner of Patents and Trademarks  
Washington, D.C. 20231

Sir:

A Notice of Omitted Item(s) in a Nonprovisional Application was received because Applicant's New Nonprovisional Application filed November 2, 2001 failed to include Figure 2A. This petition is submitted together with (1) the required fee under 37 C.F.R. § 1.17(h), (2) a showing which includes a declaration under 37 C.F.R. § 1.181(b) of the causes of the failure to include Figure 2A, and (3) an additional copy of Applicant's New Nonprovisional Application filed November 2, 2001 including Figure 2A. This Petition requests the Commissioner to invoke his supervisory authority pursuant to 37 C.F.R. § 1.181 to review and rescind the Notice of Omitted Item(s) in a Nonprovisional Application associated with the subject application, and assign the subject application, in its entirety, a filing date of November 2, 2001.

On November 2, 2001, Applicant filed his New Nonprovisional Application, a copy of

03/11/2002 MBERHE 00000126 10000062

01 FC:122 130.00 OP  
Adjustment date: 05/29/2002 AKELLEY  
03/11/2002 MBERHE 00000126 10000062  
01 FC:122 -130.00 OP

Repln. Ref: 05/29/2002 AKELLEY 0000025300  
DRI: 033565 Name/Number: 10000062  
FC: 704 \$130.00 CR

which is attached hereto as Exhibit 1. The cover letter and post card of the Law Offices of Royal W. Craig, copies of which are also attached, that accompanied Applicant's New Nonprovisional Application filed November 2, 2001 made specific reference to "42 pages total of specification including 12 pages of drawing." The "12 pages of drawing" included a separate page for Figure 2A. Applicant's records show that his New Nonprovisional Application was prepared on November 2, 2001 with a Figure 2A showing a definition analysis associated with Applicant's invention. More particularly, Figure 2A provided evidence that the Applicant's invention had passed a series of tests performed by an analysis laboratory accredited by both the American Association for Laboratory Accreditation and the Safety Equipment Institute. Therefore, Applicant believes that the original Figure 2A was detached from the application papers in transit to the Customer Service Center of the Initial Patent Examination Division.

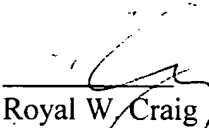
It is believed that proper precautionary systems were in operation which were calculated to avoid the circumstances which caused the omission. However, as explained above, because Applicant's records indicate that his New Nonprovisional Application was prepared with Figure 2A attached thereto, Applicant believes that the lack of Figure 2A in Applicant's original filing of his New Nonprovisional Application was due to outside interference.

It is submitted that the circumstances surrounding Applicant's filing of his New Nonprovisional Application on November 2, 2001 are appropriate for the Commissioner to invoke his supervisory authority to review and rescind the Notice of Omitted Item(s) in a Nonprovisional Application, and that a favorable decision on this petition is in order.

In view of the above Petition and attached Declaration of Muriel V. Chider, it is believed

that a satisfactory showing has been made that Applicant's New Nonprovisional Application prepared on November 2, 2001 was proper, and that the omission of Figure 2A from the papers filed by Applicant on November 2, 2001 was through the intervention of a third party. Thus, a review by the Commissioner of the Notice of Omitted Item(s) in a Nonprovisional Application associated with the subject application, for the purpose of assigning the subject application, in its entirety, a filing date of November 2, 2001, is respectfully requested.

Respectfully submitted,

  
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Date 2/23/02

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